

**AN ORDINANCE BY  
COUNCIL MEMBER CLAIR MULLER**

**AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO GRANT A TEMPORARY CONSTRUCTION EASEMENT TO CSX TRANSPORTATION ("CSX") THROUGH TANYARD CREEK PARK, AND TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH CSX SETTING FORTH THE CONSIDERATION TO BE RECEIVED BY THE CITY IN EXCHANGE FOR GRANTING THE CONSTRUCTION EASEMENT; AND WAIVING THE APPLICATION TO CSX OF PROVISIONS \_\_\_\_ OF THE ATLANTA CODE OF ORDINANCES FOR PURPOSES OF THE CONSTRUCTION EASEMENT ONLY; AND FOR OTHER PURPOSES.**

**WHEREAS**, CSX owns a timber trestle railway bridge that crosses Tanyard Creek (the "Bridge"). The Bridge contains a single track that carries a significant amount of daily freight rail traffic, and is an important shipping corridor into and out of the City of Atlanta (the "City"); and

**WHEREAS**, the Bridge is approaching the end of its service life and needs to be replaced to provide for the continued safe operation of the railway; and

**WHEREAS**, the most feasible access to the Bridge for purposes of replacing the Bridge and constructing a new bridge is through the City's Tanyard Creek Park; and

**WHEREAS**, CSX has requested a construction easement through Tanyard Creek Park for the purpose of replacing the Bridge; and

**WHEREAS**, CSX has agreed to make certain improvements to Tanyard Creek Park in exchange for the City's granting the construction easement. The details of these improvements are set forth in a proposed Memorandum of Understanding between CSX and the City; and

**WHEREAS**, the City will need to waive the application to CSX of certain park rules set forth in Atlanta Code of Ordinances, sections \_\_\_\_\_, for purposes of the construction easement only, so that CSX can keep its construction vehicles in Tanyard Creek Park at night and can complete its construction in a timely fashion.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:**

**SECTION 1:** That the Mayor be and is hereby authorized, on behalf of the City, to grant a temporary construction easement to CSX through Tanyard Creek Park, the exact dimensions and details of which are set forth in Exhibit A hereto ("Construction Easement").

**SECTION 2:** That the Mayor be and is hereby authorized, on behalf of the City to enter into a Memorandum of Understanding with CSX, whereby the Memorandum of Understanding sets forth the consideration provided by CSX to the City in exchange for the City's granting to CSX the Construction Easement, and where the Memorandum of Understanding is substantially similar to that attached hereto as Exhibit B ("MOU").

**SECTION 3:** That the following sections of the Atlanta Code of Ordinances are hereby waived, but only as applied to CSX for purposes of performing work related to the Construction Easement: \_\_\_\_\_. Said waiver shall expire upon the expiration of the Construction Easement.

**SECTION 4:** That the City Attorney or her/his designee is hereby directed to prepare the Conservation Easement, the MOU, and any other documents necessary to implement the intent of this Ordinance, for execution by the Mayor, and the Conservation Easement, MOU, and other potential documents shall be approved as to form by the City Attorney or her/his designee.

**SECTION 5:** That the Conservation Easement, MOU, and any other potential documents related to this Ordinance shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor and delivered to CSX.

**SECTION 6:** That all ordinances or parts of ordinances that are in conflict with the provisions of this Ordinance are waived for purposes of this Ordinance only, and only to the extent of the conflict.